

Order

Michigan Supreme Court
Lansing, Michigan

March 28, 2008

Clifford W. Taylor,
Chief Justice

134827

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 134827
COA: 277832
Saginaw CC: 01-019528-FC

OLANDER DONTREYL CALBERT,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the June 15, 2007 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

KELLY, J., dissents and states as follows:

Defendant has shown that he delivered his application for leave to appeal to the prison authorities for mailing on the day before the deadline for filing in the Court of Appeals. The prison authorities neglected to ensure that the Court of Appeals received it the next day. The Court of Appeals deemed the appeal untimely and dismissed it. Without contest, it was because of his incarceration that defendant was unable to ensure that the application was filed with the Court of Appeals on time. Defendant complied with the court rules to the best of his ability by placing the application in the hands of the prison authorities before the time for appeal expired. For that reason, we should determine that his application was timely filed and we should remand this case to the Court of Appeals for consideration as on leave granted.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 28, 2008

Corbin R. Davis

Clerk